

No. 13058

United States
Court of Appeals
for the Ninth Circuit.

A. F. LEVY, Administrator,

Appellant,

vs.

JOHN E. SISSON and DORIS FISCHER,
Appellees.

Transcript of Record

Appeal from the United States District Court for the
Southern District of California
Central Division.

FILED

OCT 22 1951

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF ATTORNEYS

For Appellant:

A. F. LEVY,

In Propria Persona,

4314 $\frac{1}{2}$ Sunset Blvd.,

Los Angeles 27, Calif.

For Appellee John E. Sisson:

JOHN E. SISSON,

515 Van Nuys Bldg.,

210 West Seventh St.,

Los Angeles 14, Calif.

For Appellee Doris Fischer:

DORIS FISCHER,

In Propria Persona,

1636 N. Mariposa Ave.,

Los Angeles 27, Calif.

In the District Court of the United States in and for
the Southern District of California, Central
Division

Civil No. 12992-C

A. F. LEVY, as Administrator of the Estate of
Carrie F. Levi, Deceased.

Plaintiff,

vs.

JOHN E. SISSON, DORIS FISCHER, JOHN
DOE, and MARY ROE,

Defendants.

COMPLAINT

Damages, \$5,412.16

Plaintiff, appearing in his representative capacity, complains of the defendants and each and all of them and alleges:

I.

Said named plaintiff, A. F. Levy, (a major heir of said estate) on March 21st, 1950, was appointed Administrator, De Bonis Non. by the Superior Court of Los Angeles County California. Being a resident of said county and state and a citizen of the United States as the said named defendants, John E. Sisson and Doris Fischer so are also.

Said estate is entitled, "Estate of Carrie F. Levi, Deceased. Number 217-464 A. F. Levy Administrator, C.T.A. & B.B.N." and the files and records in said proceedings therein are hereby by reference made a part of this complaint. On April 6th, 1950, Plaintiff fully qualified to said trust and appoint-

ment, by taking the oath and posting a bond that was approved by said court and now is and ever since then has been the duly appointed and qualified administrator of said estate now pending in said court.

II.

Likewise and now pending in the same court since 1938 under number 179836, Doris Fischer (the within-named defendant) is likewise the Administratrix, or rather the Executrix under the will of Mathilda G. Mautner, and Carrie F. Levi is or was before her demise, a named heir to one-sixth ($1/6$) of the "Estate of Mathilda G. Mautner, Deceased." John E. Sisson was substituted in 1948 as Mrs. Fischer's attorney and ever since and now is acting of record in that capacity aforesaid. This complaint will be amended when the fictitious defendant names, "John Doe & Mary Roe" are discovered by their true names.

III.

This action arises under Title 8 Sections 43-47-48 U.S.C.A. being based upon the second section of Article III U. S. Constitution and Title 28, 1343, U.S.C.A. based upon the last sentence of Section 1 of the XIV Amendment to the Constitution, as hereinafter appears.

IV.

In 1941 about 3 years after the death of Mathilda G. Mautner, Carrie F. Levi, (Mrs. Mautner's aunt) suffered in her extreme old age, her first mental disturbance brought about by the tragic and most sudden death of her most beloved daughter. While

in this condition she was induced, in violation of law, to consent to being placed under guardianship in the same aforementioned state court. Entitled, Estate of Carrie F. Levi, Incompetent #206291. She quickly recovered from this mental upset and demanded the restoration of her property, but her property, again in violation of law, was held in hostility to such demand under color of law, known [3*] as Judicial Slavery'' in violation to the 13th amendment to the Constitution, prohibiting chattel slavery as well. The aged victim through the shadow of death, escaped one kidnap only to become the victim of another from which she cleverly made her escape. This attracted outside persons, (see Rolston v. Estate of Levi, Municipal Court, #509362) with a malicious and oppressive system of judicial robbery, from which the authorities would offer no relief therefrom, causing the victim to flee from California depriving local authorities of all jurisdiction of her person and property. Again in violation of her civil rights, her homestead cottage was sold, but after confirmation of the sale by the court the buyer threatened to put the other conspirators in jail unless they released them from the conspiracy and return the deposit which they did.

A frugal person in exile, her bank accounts dissipated, by payment of false claims aforesaid, attempting to sell property that could not be sold, fees, fees, and more fees with the property in great demand though left unproductive with no funds to meet living expenses at the place of her refuge—

*Page numbering appearing at foot of page of original Certified Transcript of Record.

she returned to California in the hope that the failure of her oppressors might cause them to relax. These conspirators being fully aided and abbetted by the courts as more clearly shown by the conclusive and unanswerable court records; such relaxment would not obtain, and the victim, though always envied for her exceptional ability, nevertheless was susceptible to the general weakness that always accompanies extreme old age, so was compelled to bring about the unnecessary and untimeliness of her own death, in which she disinherited first these conspirators in her will.

V.

Doris Fischer, within, then the wife of the victim's nephew and at all times mentioned herein and now was, and is fully conversant with these and the foregoing facts. When in the estate [4] proceedings these conspirators, in a fake trial and pretended hearing where it was plainly visible, but still clearer shown by the files and records in the Levi estate proceedings—had bought out the proponents of the will attorney—still the court adjudged that they were to take nothing under the will, because they had no evidence to introduce that the deceased victim of judicial slavery and robbery was ever of unsound mind or that anyone had ever attempted to use undue influence upon her in making her will, as they claimed in their will contest. Neither were they creditors or otherwise succeed to any part of the estate.

New conspirators joined the old ones who bribed

the surety to withdraw (without alleging any cause), their surety bond. An action for this conspiracy was immediately dismissed on the grounds that it does not show the slightest grounds for recovery from the conspirators, notwithstanding unanswerable court records show just the opposite is true and mandatory upon the court. The court clerk refused to accept a personal bond, contending that no matter how great the security, if subject to the slightest incumbrance its holder could not qualify as a lawful bondsman, which is absolutely false. But when fully unincumbered property highly in excess of the amount of the bond, in double the amount was tendered, they induced the court through abuse of court procedure that its presentment was untimely and too late.

Once having gained control of the deceased victim's estate the only duty they would perform which the law imposed upon them was to collect the rents from the tenants the previous representative had obtained, and refused to sell the perishable property, but instead caused some of the tenants to move so that it would be easier to sell the real property, which as above stated, the court determined afterward, that they had no interest whatsoever in same.

They refused to pay the valid claims against the estate, [5] causing the claims to almost double in interest. They paid themselves high fees, in mock trials where the suitors became both defendants and plaintiffs in the same action, subverting the laws and disproving the science of mathematics, which now have terminated in creditor judgments against the

estate. However they paid all the invalid claims of the decedents conspirators without observing the regular course of probate procedure. Engaged in litigation unauthorized by law, and carried on more litigation in the higher courts to determine who shall administer the estate after its assets were dissipated almost completely long before this question arose.

They acted as representatives both for the will, pretendingly, and also against the will and made persons who made no court application to succeed to part of the residue of the estate assets. They even administered upon the estate of your plaintiff within, as though he were a dead person, always awarding themselves high fees for this alleged highly-skilled useless and malicious work. And finally in the Decree of Distribution in the pretended closing of the Levi estate, they conferred upon the Superior Court the obligation to distribute to the "Heirs of the Levi" estate the remaining distribution from the Mautner estate when the same shall become payable; all contrary to law. (See Exhibit and page, thus A4-L9.) They wrote letters denying the very words of the statute, and even won court approval thereof. They belittled your plaintiff's demand that they follow the law, always suggesting that he employ a competent attorney, when they knew full well that an honest attorney could not be obtained and they could easily get the other kind to join them in their subversive activities. (D1*.) They threatened recriminative lawsuits that proved to be made in bad faith and not one thing has been settled, barred or abated, except to bring disdain

and disgrace upon certain public officials; break down what little confidence remains in judicial procedure and [6] they will find no way to bring an end to this litigation. Neither has the failure of the high courts to maintain the regular course of law below and its method of setting up falsehoods, and then confirming them without any hearing whatsoever have proved futile.

VI.

The last two paragraphs of conditions precedent, are typical of the concert action of Doris Fischer and John E. Sisson. She first changed attorneys for the reason aforesaid. (D1*.) Making it necessary to file request for Special Notice. (D1**.) Because of the mass of litigation already involved, all objections to the much faulty account was waived, and objections were only filed to the distribution planned by their predecessor conspirators. The usual custom was amplified, by notifying both parties that such contemplated distribution which was carried over from the void distribution of the Decree in the Levi estate, must not prevail contrary and repugnant to the very words of the statute. (A4 L9.) The entry in the register of Actions, 179836 formerly read "Jan. 31. Objection to distributions (A. F. Levy) Filed," but merely the date and Abbreviation "Object," has since been eradicated therefrom. (D1***.) On May 24th, 1950, as shown by the register, Waiver of Findings and Conclusions was signed by all attorneys. (DI-**** A2 L.7) and mentioned in the Mautner Decree. (A2 L.7.) But since nothing in the decree or court minutes state how it was adjudged

(A1 & D2) it appears contrary to sections 1230, 1220-1221 Probate Code. Likewise neither the decree or minutes show that Ida Wells was present at the trial or testified proving Sisson's statement in his letter false. One of the objectors could not appeal from an order in which findings have been waived. (B.1.L.17.)

VII.

Six days after the Mautner degree had been formally entered, directing distribution, heirs of the Levi estate in place of the Administrator, as directed by section 1023 and 571 Probate Code.

Action in the Municipal Court #994-994 under the authority [7] of section 1021 of the Probate Code, was commenced. Doris Fischer and her surety were made the principal defendants. Notwithstanding such authority, her attorney John E. Sisson filed a demurrer in bad faith, stating that it was filed in good faith, which Dishonorable Judge Green of the Municipal Court sustained, with leave to amend. (E.1 & 2.) Judge Green by his own record admits that he is a judge without dignity or honor, biased and prejudiced. He held it did not show the slightest ground for recovery.

VIII.

Enthused over this ill-gotten court ruling, Mr. Sisson on July 21, 1950 (D.I. * * *), filed a motion (without any grounds), to vacate the Decree of Distribution, to which all the attorneys had waived findings, etc., and entitled it, "Petition for instructions to set aside final account." He claimed fees,

extra fees and more fees for highly skilled work and now asks the court to allow the executrix to set aside the decree, when only the court has the power to do it. He, on the same date, sent a letter (placing a copy on file), which letter is herein reproduced in full. (B.I.) It's main object was to carry out the illicit distribution to the heirs of the Levi estate in a lesser amount than is set forth in the decree. (\$316.43 instead of \$375.96. See Decree & B.6.) Furthermore the heirs of the Levi Estate will not be known until all the inventoried property has been fully liquidated or abandoned and the expenses of administration, etc., paid. The entire letter fails to state anything but the truth and is loaded with deception, guile and trickery. Every effort was made (B.2-3-4 & 5) to induce Doris Fisher as executrix both before and after August 4th, 1950, at which time the probate court denied her misnamed petition to set aside the decree (D.I. * * *). Her home, which she acquired by dealing with the assets of the Mautner estate, in violation of 583 Probate Code, was attached and many letters (B.2-5) and conversations with her and her surety ensued. The latter claiming [8] that it was the court's duty to compel the executrix to carry out the terms of the decree and that there liability did not commence until judgment had been established against their risk. Recourse could not be had to the court because the Decree provided payment to the heirs and not the Administrator.

Thereupon the complaint was amended in substance only, seeking \$5,000.00 damages against both

Mrs. Fisher and Mr. Sisson. But otherwise not. (See C.4.L.7.) Again Mr. Sisson used his highly skilled powers in obstructing justice, with the willing tools know as courts clerk (B.6-7), and what should have only taken two minutes to get the case transferred to the higher court under 396 C.C.P. required two weeks. Without notice or any copy of this first amended complaint being served upon Mr. Sisson, he, nonetheless, by the same means that he knew it had been filed and was in the process of transferring, still he filed a demurrer to this first amended complaint (E3-4 B7). He had hoped to defeat the transfer knowing full well that Judge Green, true to form, would sustain this demurrer also if he ever got the chance to. All the papers, as required by law, except points and authorities filed to uphold the original complaint, have been sent up to the Superior Court and renumbered 576,203 where it has remained six months without being called for hearing. The hearing on this second demurrer would regularly come before Judge Stevens or Judge Patrosso. The former admits by his own built record that he is without honor or dignity and the latter likewise admits that he is biased and prejudiced. The amount of the full distributive shares (\$375.96) will only take care of half of the judgment claims almost 10 years past due.

Wherefore, That in pursuance of the said conspiracy or concert of action between the said Doris Fischer, executrix, and her attorney, John E. Sisson, as alleged or more clearly shown by the unanswerable files and records hereinbefore referred to,

showing [9] that the said defendants and each of them have, in violation of their oath, to wilfully and maliciously acted to defeat the will of Mathilda G. Mautner for which they were paid to uphold. That both and each of them have acted to hinder, impede and obstruct the regular processes of law, in violation of the due process clause of the Federal Constitution of the United States. That likewise they have attempted or are about to deprive and defeat the judgment creditors and heirs of the Estate of Carrie F. Levi of their property, and make for naught the efforts of the plaintiff within to give effect to the laws, customs and usages that would preserve the civil rights of said persons. And by reason of the premises plaintiff has suffered great inconvenience and harmfully annoyed and delayed in consequence thereof. And to his damage, Plaintiff, as Administrator of the Estate of Carrier F. Levi, Deceased, and for the benefit of said estate, prays for:

Statutory and exemplary damages in the	
sum of	\$5,000.00
Actual Damages for the conversion of dis-	
tributive share	375.96
Compensatory Damages for accrued court	
costs	37.20
<hr/>	
Total.....	\$5,412.16

Or total Damages in the sum of Five Thousand Four Hundred Twelve Dollars Sixteen cents (\$5,412.16)

and for such other relief as may seem proper and cost of suit herein.

/s/ A. F. LEVY,

As Administrator of the Estate of Carrie F. Levi,
Deceased.

Dated at Los Angeles, Calif., April 3rd, 1950.

Duly verified.

[Endorsed]: Filed April 4, 1951. [10]

[Title of District Court and Cause.]

MOTION TO DISMISS AND MOTION FOR JUDGMENT UPON THE PLEADINGS

Comes now Defendant, John E. Sisson, and moves the Court as follows:

I.

To dismiss the action because the complaint fails to state a claim against this Defendant upon which relief can be granted.

II.

That the action does not arise under the Article or Section of the Constitution of the United States referred to in paragraph III of the complaint or under any other Article, Amendment or Section thereof.

III.

That the matter in controversy herein does not really and substantially exceed, exclusive of interest

and costs, the sum or value of Three Thousand Dollars (\$3,000.00) as shown by the statements and allegations appearing in Exhibits A, B, C, D and E, and also as [34] set forth and alleged in paragraph VIII of said complaint.

It appears as a matter of law from the complaint that Plaintiff cannot recover in this action a sum, exclusive of interest and costs, in excess of \$3,000.00, and the matter in controversy in this action does not exceed, exclusive of interest and costs, the sum or value of \$3,000.00.

IV.

That by the allegations in Plaintiff's complaint it is definitely shown that the Defendant, John E. Sisson, and Doris Fischer are residents of the City of Los Angeles, County of Los Angeles, State of California.

V.

To dismiss this action because the complaint fails to state a claim against Defendant, John E. Sisson, upon which relief can be granted in that no matter or acts of this Defendant are alleged which in any manner state or create any liability.

VI.

In the event that the complaint is not dismissed for the reasons stated in paragraph V, to require Plaintiff to file and serve a more definite statement of the matters which are not averred with sufficient definiteness or particularity to enable this Defendant properly to prepare responsive pleadings or to prepare for trial.

VII.

Defendant moves this court requiring this Plaintiff to set forth in separate counts his claims insofar as they relate to this particular Defendant.

VIII.

Defendant also moves this court for a summary judgment in his favor for the reason the plaintiff has not stated any facts or matters in the whole or every part of his complaint which in any manner gives rise to any recovery in such action.

Dated this 27th day of April, 1951.

/s/ JOHN E. SISSON,

Attorney in Propria Persona.

Affidavit of Service by Mail attached.

[Endorsed]: Filed April 28, 1951. [35]

[Title of District Court and Cause.]

MOTION TO DISMISS AND MOTION FOR
JUDGMENT UPON THE PLEADINGS

Comes now Defendant, Doris Fischer, and moves the Court as follows:

I.

To dismiss the action because the complaint fails to state a claim against this Defendant upon which relief can be granted.

II.

That the action does not arise under the Article

or Section of the Constitution of the United States referred to in paragraph III of the complaint or under any other Article, Amendment or Section thereof.

III.

That the matter in controversy herein does not really and substantially exceed, exclusive of interest and costs, the sum or value of Three Thousand Dollars (\$3,000.00) as shown by the statements and allegations appearing in Exhibits A, B, C, D and E, and also as [46] set forth and alleged in paragraph VIII of said complaint.

It appears as a matter of law from the complaint that Plaintiff cannot recover in this action a sum, exclusive of interest and costs, in excess of \$3,000.00, and the matter in controversy in this action does not exceed, exclusive of interest and costs, the sum or value of \$3,000.00.

IV.

That by the allegations in Plaintiff's complaint it is definitely shown that the Defendant, John E. Sisson, and Doris Fischer are residents of the City of Los Angeles, County of Los Angeles, State of California.

V.

To dismiss this action because the complaint fails to state a claim against Defendant, Doris Fischer, upon which relief can be granted in that no matter or acts of this Defendant are alleged which in any manner state or create any liability.

VI.

In the event that the complaint is not dismissed for the reason stated in paragraph V to require Plaintiff to file and serve a more definite statement of the matters which are not averred with sufficient definiteness or particularity to enable this Defendant properly to prepare responsive pleadings or to prepare for trial.

VII.

Defendant moves this court requiring this Plaintiff to set forth in separate counts his claims insofar as they relate to this particular Defendant.

VIII.

Defendant also moves this court for a summary judgment in her favor for the reason the plaintiff has not stated any facts or matters in the whole or every part of his complaint which in any manner gives rise to any recovery in such action.

/s/ DORIS FISCHER,

Appearing in Propria
Persona.

Dated this 22nd day of May, 1951.

Affidavit of Service by Mail attached.

[Endorsed]: Filed May 22, 1951. [47]

District Court of the United States, Southern
District of California, Central Division

No. 12992-C

A. F. LEVY, as Administrator of the Estate of
Carrie F. Levi, Deceased,

Plaintiff,

vs.

JOHN E. SISSON, DORIS FISCHER, JOHN
DOE & MARY ROE,

Defendants.

ORDER DISMISSING ACTION

The Motion to Dismiss of defendant, John E. Sisson, having been duly set and come on for hearing in Court Room No. 3, United States Courts, and Post Office Building, Los Angeles, California, on the 21st day of May, 1951, at 10:00 o'clock a.m., and the motion of Doris Fischer to dismiss, having come on for hearing on June 4, 1951, the Honorable James M. Carter, Judge presiding, the plaintiff appearing in propria persona and the defendants appearing in propria persona, and the court having been fully advised in the premises, accordingly,

It Is Ordered, Adjudged and Decreed that the Motions of defendants, John E. Sisson and Doris Fischer, to dismiss such action be, and the same are hereby, granted, and accordingly said action be, and the same is hereby, dismissed.

Said motions are granted upon the following grounds, and each of them, to wit:

(1) That said complaint fails to state a [61] claim; that said action does not arise under any Article or Section of the Constitution of the United States.

(2) That no diversity of citizenship is shown or alleged as between the parties plaintiff and defendant.

Said Motions to Dismiss having been so granted, and the action dismissed, the Motions for judgment on the pleadings, motions for more definite statement, etc., and motion to strike of said defendants were with the consent of said defendants withdrawn.

Dated this 7th day of June, 1951.

/s/ JAMES M. CARTER,
Judge.

[Endorsed]: Filed June 7, 1951.

Judgment entered June 11, 1951, Book 73,
Page 30.

EDMUND L. SMITH,
Clerk.

By /s/ C. A. SIMMONS,
Deputy. [62]

[Title of District Court and Cause.]

NOTICE OF APPEAL TO CIRCUIT COURT
OF APPEALS

Rule 73(b)

To the Clerk of the Said Court:

Notice is hereby given that the above-named plaintiff, in his representative capacity aforesaid and named above, hereby appeals to the Circuit Court of Appeals for the Ninth Circuit from the unsubmitted order dismissing the within action, as a final judgment entered in Book 73 at page 30 in the above-entitled action on June 11, 1951, and also from the subsequent order of July 9, 1951, denying the "Motion to Vacate This Judgment" and enter judgment for the plaintiff, or to amend or modify judgment appealed from so as to conform with state law, local District Court rules, or the rules of the Federal Rules of Civil Procedure.

/s/ A. F. LEVY,

Administrator of
Decedents Estate.

Dated July 10, 1951.

Los Angeles, California.

[Endorsed]: Filed July 11, 1951. [76]

[Title of District Court and Cause.]

CERTIFICATE OF CLERK

I, Edmund L. Smith, Clerk of the United States District Court for the Southern District of California, do hereby certify that the foregoing pages numbered from 1 to 78, inclusive, contain the original Complaint; Motions of John E. Sisson and Doris Fischer to Dismiss and for Judgment Upon the Pleadings; Motions of John E. Sisson and Doris Fischer to Strike; Summons; Opposition to Motion to Dismiss; Order Dismissing Action; Motion to Vacate Judgment; Notice of Motion; Copy of Letter from Plaintiff to County Treasurer; Summary of Proceedings with Points and Authorities; Notice of Appeal; Request for Record; Corrections to Exhibit E attached to Complaint and a full, true and correct copy of Notice of Entry of Judgment and Minutes of July 9, 1951, which constitute the record on appeal to the United States Court of Appeals for the Ninth Circuit.

I further certify that my fees for preparing and certifying the foregoing record amount to \$2.00 which sum has been paid to me by appellant.

Witness my hand and the seal of said District Court this 16th day of August, 1951.

[Seal]

EDMUND L. SMITH,
Clerk,

By /s/ THEODORE HOCKE,
Chief Deputy.

[Endorsed]: No. 13058. United States Court of Appeals for the Ninth Circuit. A. F. Levy, Administrator, Appellant, vs. John E. Sisson and Doris Fischer, Appellees. Transcript of Record. Appeal from the United States District Court for the Southern District of California, Central Division.

Filed August 17, 1951.

/s/ PAUL P. O'BRIEN,

Clerk of the United States Court of Appeals for
the Ninth Circuit.

In the United States Court of Appeals
for the Ninth Circuit
No. 13058

A. F. LEVY, Administrator,
Plaintiff and Appellant,

vs.

JOHN E. SISSON and DORIS FISCHER,
Defendants and Appellee.

STATEMENT OF POINTS RELIED ON AND
DESIGNATION OF RECORD

To the Clerk of the Above-Entitled Court:

Plaintiff and appellant herein, relies in particular upon subdivision two (2) of Title 8, Section 47, and all of Section 48 of Title 8, U.S.C.A., and the jurisdiction provided under sub-division One (1) and Two (2) of Title 28, Section 1343. On the ground that the complaint sets forth sufficient well pleaded facts to invoke these laws and maintain an action against the appellees herein. That the only part of the record that is material to this proposition and the appeal herein, for the determination of this question is the complaint less exhibits attached thereto and the "Order Dismissal Action," dated June 7, 1951, and entered June 8, 1951.

Dated at Los Angeles, California, August 22, 1951.

/s/ A. F. LEVY,
Appellant.

Affidavit of Service by Mail attached.